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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,643	10/18/2001	Scott E. Taylor	2070.005500/P6771	8153
7590	07/06/2006		EXAMINER	
B. Noel Kivlin Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. P. O. Box 398 Austin, TX 78767-0398			AILES, BENJAMIN A	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/982,643	TAYLOR, SCOTT E.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Benjamin A. Ailes	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 April 2006.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

1. This action is in response to correspondence filed 21 April 2006.
2. Claims 1-24 remain pending.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitney et al. (US 5,842,214), hereinafter referred to as Whitney, in view of Sugauchi et al. (US 6,041,349), hereinafter referred to as Sugauchi, and further in view of Wang et al. (US 6,757,242 B1), hereinafter referred to as Wang.

3. Regarding claim 1, Whitney teaches a system control unit wherein the system control unit includes a storage unit configured to store a domain list such as a distribution system having a first storage media portion which store and manage files (col. 2, lines 13-16). The distribution system includes workstation 101, network server 103, storage devices 104, and domain controllers 106 and also provides load balancing of domain controller resources. The domain controller includes a directory service server 204 that is responsible for mediating access to DS entries 202 (col. 4, lines 42-55). On column 5, lines 1-8, the distributed file system manager 208 provides functionality for facilitating distributed name resolution and also provides management for a prefix table and management for knowledge about the file system. Regarding to

claimed control unit for adapted to determine an active path from the one or more available paths, Whitney teaches distribution file system which performs the distributed name resolution as shown in figure 6, wherein retrieve storage location routine performs the mapping of the logical path name of an object to a physical address for the object in the distributed system, (see col. 7, lines 40-59). However, Whitney does not clearly disclose the path list that comprises one or more paths available for communications and the control unit adapted to determine an active path from the one or more available paths and to transmit data to the domain over the active path. Sugauchi teaches management configuration of a network including block composed of client/server defined as domain (col. 3, lines 53-66). Furthermore, Sugauchi discloses a flow chart showing the outline of the process of collecting relating information when the operated object is a server (col. 5, lines 43-68), and further discloses the corresponding table for storing management node relating the designated managed object and stores the designated object domain configuration information, as in figure 7 and col. 6, lines 1-51. Also, for the case of the client, the connections of the display symbol to the servers in the connection state at present are displayed (col. 7, lines 45-64). With regard to claimed transmitting data over the active path, Sugauchi teaches communication control unit 309 for controlling the communication process for collecting management information, and transmits request information by each management function (col. 4, line 54 – col. 5, lines 1-20). With regard to explicitly “changing an active path”, Wang discloses in column 3, lines 10-21 a method for detecting available network connections (active links) and changing to one of the available network connections when it is

deemed necessary. Wang discloses as an example situation wherein if a link connection fails, then a new active link is determined. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to utilize the teachings of Sugauchi and Wang for the recited features into the system of Whitney because, Sugauchi will provide visual configuration of client/server by displaying "active path" for communication, see col. 12, lines 31-44, and Wang provides reasoning for and a method to determining and selecting an "active path" as disclosed in column 3, lines 10-21.

4. Regarding claim 2, as mentioned above, Whitney does not explicitly disclose the step of choosing the "active path" however this feature of choosing an "active path" is taught by Wang (col. 3, lines 10-21). It is through this method taught by Wang that the new "active path" is the path to be used for network communication (send and receive data) and therefore this feature teaches the step of enabling the "control unit" to be able to receive data from the domain. The rationale used to combine the teachings of Whitney, Sugauchi, and Wang as utilized in claim 1 applies equally as well to claim 2.

5. Regarding claim 3, Whitney does not explicitly disclose the step of choosing the "active path" however this feature of choosing an active path is taught by Wang (col. 3, lines 10-21). Wang discloses steps taken in case of the need arises to change the "active path". The rationale used to combine the teachings of Whitney, Sugauchi, and Wang as utilized in claim 1 applies equally as well to claim 3.

6. Claim 4 contains similar subject matter and is rejected under the same rationale as claim 1. See specifically the explanation of the features taught by Wang.

7. Regarding claim 5, Wang discloses changing the “active path” in response to an indication received from across the network (an indication of a link failure). It would have been obvious to one of ordinary skill in the art that the indication received could be from another domain due to the fact that other domains are quite often communicated over a network. The rationale used to combine the teachings of Whitney, Sugauchi, and Wang as utilized in claim 1 applies equally as well to claim 5.

8. Regarding claim 6, Wang discloses in col. 3, lines 17-21 the use of a routing table to keep track of paths. The rationale used to combine the teachings of Whitney, Sugauchi, and Wang as utilized in claim 1 applies equally as well to claim 6.

9. Regarding claim 7, Wang discloses in col. 3, lines 17-21 the use of a routing table to keep track of paths. The rationale used to combine the teachings of Whitney, Sugauchi, and Wang as utilized in claim 1 applies equally as well to claim 7.

10. Regarding claim 8, Wang discloses in col. 3, lines 17-21 the use of a routing table to keep track of paths. Wang keeps track of paths and distances in order to find optimum paths. The rationale used to combine the teachings of Whitney, Sugauchi, and Wang as utilized in claim 1 applies equally as well to claim 7.

11. Regarding claim 9, as mentioned above, Whitney does not explicitly disclose the step of choosing the “active path” however this feature of choosing an “active path” is taught by Wang (col. 3, lines 10-21). It is through this method taught by Wang that the new “active path” is the path to be used for network communication (send and receive data) and therefore this feature teaches the step of enabling the “control unit” to be able

to receive data from the domain. The rationale used to combine the teachings of Whitney, Sugauchi, and Wang as utilized in claim 1 applies equally as well to claim 9.

12. Claims 10-24 contain similar subject matter and are rejected under the same rationale as claims 1-9.

***Response to Arguments***

13. Applicant's arguments filed 21 April 2006 have been fully considered but they are not persuasive.

14. (A) Applicant argues that there is no teaching or suggestion of a "system control unit including a storage unit and a control unit" as recited in the independent claims.

The examiner does not agree. The broadest reasonable interpretation given to a "system control unit" is any type of device that has some sort of control over a system.

The first and second computer systems taught by Whitney in column 1, lines 57-59 are deemed functionally equivalent to the "system control unit" claimed by applicant because the first and second computers perform control functions within the system. It is also deemed well known that a computer system must have a storage unit, therefore the use of a storage unit is deemed an inherent characteristic.

15. (B) Applicant argues that there is no teaching of a system control unit including a storage unit configured to store a domain list and a path list, wherein the path list comprises at least two paths available for communications between a domain and the system control unit. The examiner respectfully disagrees and maintains the rejection set forth above. Sugauchi is relied upon for teaching this aspect of the applicant's invention. Sugauchi teaches a flow chart showing the outline of the process of

collecting relating information when the operated object is a server (col. 5, lines 43-68), and further discloses the corresponding table for storing management node relating the designated managed object and stores the designated object domain configuration information, as in figure 7 and col. 6, lines 1-51. Also, for the case of the client, the connections of the display symbol to the servers in the connection state at present are displayed (col. 7, lines 45-64). The client is able to view the path connections available.

16. (C) Applicant argues that there is no teaching or suggestion of a system control unit including a control unit communicatively coupled to the storage unit and configured to determine an active path from the at least two available paths. The examiner respectfully disagrees and maintains the rejection set forth above. Wang is relied upon for teaching this aspect of the applicant's invention. Wang discloses in column 3, lines 10-21 a method for detecting available network connections (active links) and changing to one of the available network connections when it is deemed necessary. Wang discloses as an example situation wherein if a link connection fails, then a new active link is determined.

17. (D) Applicant argues there is no suggestion to combine the references as stated by the examiner. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The applicant provides no reason as to why one of ordinary skill in the art would not be motivated to combine the teachings of Whitney, Sugauchi and Wang. In this case, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to utilize the teachings of Sugauchi and Wang for the recited features into the system of Whitney because, Sugauchi will provide visual configuration of client/server by displaying "active path" for communication, see col. 12, lines 31-44, and Wang provides reasoning for and a method to determining and selecting an "active path" as disclosed in column 3, lines 10-21.

***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Srikrishna et al. (US 2004/0008663) discloses a selection of routing paths based upon path quality of a wireless mesh network.

Kawano et al. (US 2002/0186682 A1) discloses an optimized path establishment method and network management system using the method.

Kajiwara (US 2002/0015386 A1) discloses a communication apparatus with selective route optimization capabilities.

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A. Ailes whose telephone number is (571)272-3899. The examiner can normally be reached on M-F 6:30-4, IFP Work Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571)272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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